

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LATWAHN MCELROY,  
Plaintiff,

v.

WARDEN, et al.,  
Defendants.

No. 2:21-cv-00642 JAM DB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On September 3, 2021, plaintiff's motion to proceed in forma pauperis was denied as plaintiff had accrued three strikes 28 U.S.C. § 1915(g) prior to filing this action. (ECF No. 11 at 2.) Plaintiff was ordered to pay the required filing fee within thirty days in order to proceed with this action. (*Id.*) More than thirty days have passed and plaintiff has not paid the filing fee, requested an extension of time to do so, or otherwise responded to the courts order. Accordingly, it will be recommended that this action be dismissed for failure to comply with court orders and failure to prosecute.

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1 For the reasons state above, IT IS HEREBY RECOMMENDED that this action be  
2 dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

3 These findings and recommendations are submitted to the United States District Judge  
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days  
5 after being served with these findings and recommendations, plaintiff may file written objections  
6 with the court and serve a copy on all parties. Such a document should be captioned "Objections  
7 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
8 objections within the specified time may waive the right to appeal the District Court's order.  
9 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

10 DATED: January 3, 2022

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13 DEBORAH BARNES  
14 UNITED STATES MAGISTRATE JUDGE  
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